Carpenters Union Local No. 25, United Brotherhood of Carpenters & Joiners of America, AFL-CIO (Mocon Corporation, Emkay Development and Homecraft Drapery and Upholstery *and* Tena De Bord

Carpenters Union Local No. 25, United Brotherhood of Carpenters & Joiners of America, AFL-CIO (Homecraft Drapery and Upholstery Corporation of California) *and* Felix Lemus

Carpenters Union Local No. 25, United Brotherhood of Carpenters & Joiners of America, AFL-CIO *and* Andres J. Garcia

Carpenters Union Local No. 25, United Brotherhood of Carpenters & Joiners of America, AFL-CIO (E. B. Casillas Concrete Construction Company) *and* Augustine Rios *and* Wayne Westbrook

Los Angeles County District Council of Carpenters, United Brotherhood of Carpenters & Joiners of America, AFL-CIO (Steelform Contracting Co.) *and* Robert L. Dale

Carpenters Union Local No. 2435, United Brotherhood of Carpenters & Joiners of America, AFL-CIO (Moran Construction Co.) *and* James E. Engen

Los Angeles County District Council of Carpenters, United Brotherhood of Carpenters & Joiners of America, AFL-CIO (Moran Construction) *and* James E. Engen. Cases 31-CB-4744, 31-CB-4863, 31-CB-4864, 31-CB-4865, 31-CB-4920, 31-CB-4930, 31-CB-4915, 31-CB-4973, and 31-CB-4974

14 May 1984

DECISION AND ORDER

BY CHAIRMAN DOTSON AND MEMBERS HUNTER AND DENNIS

On 9 December 1983 Administrative Law Judge Clifford H. Anderson issued the attached decision. Carpenters Union Local No. 25, United Brotherhood of Carpenters & Joiners of America, AFL-CIO, filed exceptions and a supporting brief; Los Angeles County District Council of Carpenters, United Brotherhood of Carpenters & Joiners of America, AFL-CIO, and Carpenters Union Local No. 2435, United Brotherhood of Carpenters & Joiners of America, AFL-CIO, jointly filed exceptions and a supporting brief; and the General Counsel filed a brief in support of the decision of the judge.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[1] and conclusions and to adopt the recommended Order.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondents, Carpenters Union Local No. 25, United Brotherhood of Carpenters & Joiners of America, AFL-CIO, Los Angeles, California, Los Angeles County District Council of Carpenters, United Brotherhood of Carpenters & Joiners of America, AFL-CIO, Los Angeles, California; and Carpenters Union Local No. 2435, United Brotherhood of Carpenters & Joiners of America, AFL-CIO, Los Angeles, California, their officers, agents, and representatives, shall take the action set forth in the Order.

[1] The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

DECISION

STATEMENT OF THE CASE

CLIFFORD H. ANDERSON, Administrative Law Judge. I heard the above-captioned cases in trial in Los Angeles, California, during 13 days in June, July, and August 1983. The cases arose as follows. On August 30, 1982, Tena De Board, an individual, filed a charge docketed as Case 31-CB-4744 against Carpenters Union Local No. 25, United Brotherhood of Carpenters & Joiners of America, AFL-CIO (Respondent Local 25 or Local 25). On October 29, 1982, the Regional Director for Region 31 of the National Labor Relations Board issued a complaint and notice of hearing regarding the charge. On September 16, 1982, Felix Lemus, an individual, filed a charge docketed as Case 31-CB-4863 against Respondent Local 25. On November 9, 1982, Luis Mazariego, an individual, filed a charge docketed as Case 31-CB-4864 against Respondent Local 25. On that same date Andres J. Garcia, an individual, filed a charge docketed as Case 31-CB-4865 against Respondent Local 25. On January 18, 1983, Augustine Rios, an individual, filed a charge docketed as Case 31-CB-4920 and, on January 26, 1983, amended that charge, against Respondent Local 25. On January 19, 1983, Wayne Westbrook, an individual, filed a charge docketed as Case 31-CB-4930 and, on February 14, 1983, amended that charge, against Respondent Local 25. On February 28, 1983, the Regional Director issued an order consolidating cases, consolidated amended complaint and notice of hearing regarding the above six charges.

On January 14, 1983, Robert L. Dale, an individual, filed a charge docketed as Case 31-CB-4915 against Los Angeles County District Council of Carpenters, United

Brotherhood of Carpenters and Joiners of America, AFL–CIO (Respondent District Council or the District Council). On March 31, 1983, the Regional Director issued an order consolidating cases, second consolidated amended complaint and notice of hearing combining this charge with those previously set for hearing. On February 22, 1983, James E. Engen, an individual, filed a charge docketed as Case 31–CB–4973 against Carpenters Union Local No. 2435, United Brotherhood of Carpenters & Joiners of America, AFL–CIO (Respondent Local 2435 or Local 2435, and collectively with Respondent Local 25 and Respondent District Council, Respondents). On that same day Engen filed a charge docketed as Case 31–CB–4974 against Respondent District Council. On April 29, 1983, the Regional Director issued an order consolidating cases, third amended consolidated complaint and order resetting hearing, consolidating all the above-captioned cases for hearing.

The consolidated amended complaint as further amended at the trial alleges violations of Section 8(b)(1)(A) and (2) of the National Labor Relations Act by Respondents in the context of Respondents' operation of hiring hall referral services in the Los Angeles area. Each Respondent denies it has violated the Act.

FINDINGS OF FACT

All parties were given full opportunity to participate at the hearing,[1] to introduce relevant evidence, to call, examine, and cross-examine witnesses, to argue orally, and to file posthearing briefs.

On the entire record, with the specific limitation noted supra, including the briefs of the General Counsel, Respondent Local 25, and a joint brief from Respondent Local 2435 and Respondent District Council, and from my observation of the witnesses and their demeanor, I make the following

FINDINGS OF FACT[2]

I. JURISDICTION

Mocon Construction (Mocon) is now, and has been at all times material herein, a corporation duly organized under and existing by virtue of the laws of the State of Oregon, with an office and place of business located in Los Angeles, California, where it is engaged in the construction of buildings and roads. Mocon, in the course and conduct of its business operations, annually purchases and receives goods or services valued in excess of $50,000 directly from suppliers located within the State of California, which suppliers received such goods in substantially the same form directly from outside the State of California.

Homecraft Drapery and Upholstery Corporation (Homecraft) is now, and has been at all times material herein, a corporation duly organized under and existing by virtue of the laws of the State of New York, with an office and principal place of business located in Los Angeles, California, where it is engaged as a manufacturer and supplier of draperies and stretch wall materials. Homecraft, in the course and conduct of its business operations, annually purchases and receives goods or services valued in excess of $50,000 directly from suppliers located outside the State of California and purchases and receives goods or services valued in excess of $50,000 from sellers or suppliers located within the State, which sellers or suppliers received such goods in substantially the same form directly from outside the State.

E. B. Casillas Concrete Construction Company (Casillas) is now, and has been at all times material herein, a sole proprietorship with office located in Montebello, California, and place of business located in Los Angeles, California, where it is engaged as a subcontractor in the construction industry. Casillas, in the course and conduct of its business operations, annually purchases and receives goods or services valued in excess of $50,000 from sellers or suppliers located within the State of California, which sellers or suppliers receive such goods in substantially the same form directly from outside the State of California.

Associated General Contractors of California, Inc. (AGC) and Building Industry Association of Southern California, Inc. (BIA) are now, and at all times material herein have been, associations comprised of various employers in the building and construction industry, and exist, in part, for the purposes of negotiating, executing, and administering collective-bargaining agreements on behalf of their employer-members with various labor organizations, including Respondents.

Ceco Corporation (Ceco), Steelform Contracting Co. (Steelform), and Moran Construction (Moran) are now, and have been, at all times material herein, members of the AGC. Morley Construction Co. (Morley) and M. J. Brock & Sons (M. J. Brock) are now, and have been, at all times material herein, members of the BIA. By the terms of such membership, these employers have designated AGC and BIA, respectively, as their exclusive collective-bargaining agent for the purpose of negotiating, executing, and administering multiemployer collective-bargaining agreements with the representatives of their employees, including Respondents, which agreements bind AGC and BIA and their employer-members jointly and severally. The employer-members of AGC and BIA, respectively, constitute an appropriate multiemployer unit for the purpose of collective bargaining. Annually, the employer-members of AGC and BIA, respectively, collectively purchase and receive goods valued in excess of $50,000 directly from outside the State of California.

There is no dispute that the above-described entities and the annual volume of their commercial transactions meet the Board's current standards for asserting jurisdiction. A dispute arose however concerning the propriety

[1] While no motion was ever made to me to sever the instant cases, the parties jointly moved and I agreed to hear the cases against Respondent Local 25 separately from those against Respondent 2435 and Respondent District Council. Thus the record is in this sense bifurcated and includes portions during which all Respondents were represented and other portions when only Local 25 or the remaining two Respondents, who were represented by a single counsel, were represented. Evidence adduced during periods when only one Respondent counsel was present was by common consent offered only against the then represented Respondent(s).

[2] Where not otherwise noted, these findings are based on admissions in the pleadings, stipulations of fact, or unchallenged documentary or testimonial evidence.

of asserting jurisdiction over the operations of Tile Layers' and Terrazzo Workers' Local No. 18 (Tile Layers Local 18) in its role as a contractor. There is no dispute that Tile Layers Local 18 is a labor organization within the meaning of Section 2(5) of the Act operating in the Los Angeles, California area, nor is there a dispute that it is chartered by and an integral part of a multistate labor organization, the International Union of Bricklayers and Allied Craftsmen, which maintains a national headquarters in Washington, D.C. Further there is no dispute that Tile Layer Local 18 collects and remits to the Washington, D.C. headquarters dues and initiation fees in excess of $250,000 annually and per capita taxes in excess of $60,000.

Respondent Local 25 argues that, while these dollar figures are sufficient for the Board to assert jurisdiction over the labor organization as an employer, see, e.g., *Carpenters Local 35*, 264 NLRB 795 (1982), they should not support asserting jurisdiction over the labor organization as an owner-builder employing construction employees. I find that, once the appropriate jurisdictional standards for a labor organization as an employer have been met, the Board assumes jurisdiction over the labor organization as an employer in all situations including those where the labor organization hires construction employees as an owner-builder. This is so despite the fact that Tile Layers Local 18's construction work, taken alone, has little commercial impact. I therefore reject Respondent Local 25's argument and find it appropriate to assert jurisdiction over Tile Layers Local 18 as an employer herein.

II. LABOR ORGANIZATION STATUS

Respondents are, and each of them is, labor organizations within the meaning of Section 2(5) of the Act.

III. ALLEGED UNFAIR LABOR PRACTICES

As noted supra, this case was tried essentially in two parts and the facts and allegations with respect to each part will be separately presented and analyzed. There is however a significant amount of background common to all the cases which may be most efficiently presented initially with a separate discussion of the individual cases thereafter.

A. *General Background*

The United Brotherhood of Carpenters & Joiners of America, AFL-CIO (the United Brotherhood) has various constituent locals throughout the United States which are subject to its governing constitution and laws. Respondent Local 25 and Respondent Local 2435 are two of such locals having jurisdiction in certain areas of greater Los Angeles, California. The various Carpenters Locals in Los Angeles County including Locals 25 and 2435 are also members of Respondent District Council as required by the United Brotherhood's constitution and are subject to Respondent District Council's bylaws and trade rules.

District Councils and local unions of the United Brotherhood enter into multiemployer collective-bargaining agreements from time to time. Respondents herein at relevant times have been bound to a multiemployer agreement covering portions of southern California including Los Angeles County (the Master Labor Agreement or MLA). The MLA provided, inter alia, for the operation of an exclusive hiring hall for the dispatch of carpenter employees. Article II contained the following provisions:

> 204. In the employment of workmen for all work covered by this Agreement in the territory above described, the following provisions subject to the conditions of Article II, Paragraph 201 of this Agreement shall govern.
>
> 204.1 The Local Unions shall establish and maintain open and non-discriminatory employment lists for the use of workmen desiring employment on work covered by this Agreement and such workmen shall be entitled to use such lists free of charge.
>
> 204.2 The Contractors shall first call upon the Local Union having work and area jurisdiction for such men as they may from time to time need, and the respective Local Union shall furnish to the Contractors the required number of qualified and competent workmen and skilled mechanics of the classification needed by the Contractors strictly in accordance with the provisions of this Article.
>
> 204.3 It shall be the responsibility of the Contractors, when ordering men, to give the Local Union all of the pertinent information regarding the workman's employment.
>
> 204.4 The Local Union or District Council will dispatch in accordance with the request of the Contractor each such qualified and competent workman from among those entered on said lists in numerical order to the Contractor by the use of a written referral in the following order of preference and the selection of workmen for referral to jobs shall be on a non-discriminatory basis. All referrals from the Local Union or District Council must be in writing, on a standard form to be provided by the Southern California Conference of Carpenters. The written referral will contain the name of the Contractor, address of the jobsite, and the appropriate wage scale and the required fringe benefit rates.
>
> 204.4.1. Workmen specifically requested by name who have been employed, laid off or terminated as carpenters in the geographic area of the Local Union or District Council, as the case may be, within three years before such request by a requesting individual employer, or a joint venture of which one or more members is a former employer, now desiring to reemploy the same workmen, provided they are available for employment. This provision shall also apply to individual employers wishing to rehire employees of a joint venture of which the individual employer was a member. Requests must be made on a standard form to be provided by the Southern California Conference of Carpenters.
>
> 204.4.2 Workmen who, within the five years immediately before the Contractor's order for men, have performed work of the type covered by this Agreement in the geographic area of the Agreement, as defined in Article I, Paragraph 102 of this

Agreement, provided such workmen are available for employment. [Entire sentence sic.]

204.4.3 It is agreed that in connection with the preference outlined in subparagraph 204.4.2, above, up to 25 percent of the employees, excluding foremen, employed to perform work covered by this Agreement on any project may be employees designated by the individual employer on a standard form to be provided by the Southern California Conference of Carpenters. In case of reduction in force, foremen shall not replaced other employees on the job, except that two foremen may be retained at all times.

Respondent District Council adopted certain hiring hall rules procedures which were in effect at relevant times. Those procedures include the following:

The following procedures are placed in effect at the dispatching offices of all affiliated Local Unions, except Local Unions with country-wide jurisdiction, under the jurisdiction of the Los Angeles County District Council of Carpenters.

Dispatchers and other agents of a Local Union are required to follow these procedures and have no authority to change any of the procedures.

CARPENTERS DISPATCHED BY REQUEST OF A CONTRACTOR

1. A carpenter who is specifically requested by name by the contractor as authoried by the Master Labor Agreement must be dispatched regardless of his position on the out-of-work list.

2. The contractor may request specifically by name a carpenter who has been laid off or terminated as a journeymen carpenter in the geographic area of the Local Union or the Los Angeles County District Council of Carpenters, within three (3) years before such a request by the contractor desiring to re-employ the same carpenter, provided the carpenter is available for employment. The dispatcher must dispatch such carpenters requested under this paragraph without any limitation as to the number of requests by the contractor on the particular job project.

3. The contractor may request specifically by name a carpenter who within five (5) years immediately preceding the contractor's request has performed work of a type covered by the Master Labor Agreement in the geographic area of the Master Labor Agreement provided the carpenter is available for employment. Regarding requests under this section, the Master Labor Agreement allows requests up to 25% of the carpenters, excluding foremen, who are employed, to perform work covered by the Master Labor Agreement on a job project.

4. A contractor must make a request in writing only for a carpenter or carpenters on the form provided by the Los Angeles County District Council of Carpenters. In the event the written request is made on the stationery of the contractor, then the dispatched carpenter or carpenters must provide the Local Union within 24 hours the District Council request form for purposes of maintaining records of the Local Union.

5. The carpenter shall supply, if requested by the dispatcher, the information and papers necessary to show his work experience regarding any request by name in order to satisfy the dispatcher that the carpenter has been employed by the contractor or contractors in order to be eligible to be dispatched by name. If any doubt exists of the carpenter's right to be dispatched by a request, then the dispatcher may call prior employers, the District Council of Carpenters, other Local Unions, the Trust Offices, or may make any other prompt investigation to ascertain the needed facts.

DISPATCHING OF APPRENTICES

1. A properly certified apprentice may obtain his own job in Los Angeles County at any time during the course of the apprentice's training period.

2. The dispatcher must dispatch an aprentice regardless as to what position he holds on the out-of-work list and regardless as to which Local Union the apprentice may belong.

3. In order to be dispatched, the apprentice must have a written request from a contractor on the stationery of the contractor signed by the superintendent or the authorized representative of the contractor.

GENERAL INFORMATION AND REQUIREMENTS

11. Each Local Union shall post on its bulletin board and dispatching area these provisions relating to the dispatching procedures.

Respondent District Council's bylaws and rules contain the following:

Working Card

Section 14. A Local Union owing tax two months and the same not being paid by the fifteenth of the third month, such Local Union delegates shall not have a vote or voice in the District Council. When a Local Union owes a sum equal to three months' tax to the District Council, their delegates will not be entitled to a seat in that body nor shall the members of the delinquent Local Union be entitled to the work card of the District Council.

. . . .

Section 24. The District Council shall have the power to issue quarterly working cards to the Local Unions for each member of the United Brotherhood on the Local Unions' books. No member shall be entitled to receive a working card from a Local Union unless all his arrearages for dues, fines and assessments are paid in full.

RULE ONE

Regular Work Time and Overtime

(a) SINGLE SHIFT:

Eight (8) consecutive hours, exclusive of lunch periods between 7 a.m. and 5 p.m. shall constitute a day's work.

Forty (40) hours, Monday 7 a.m. through Friday 5 p.m., shall constitute a week's work.

(b) All time worked in excess of eight (8) consecutive hours, exclusive of lunch period, or all time worked in excess of forty (40) hours in any week, and all time worked before 7 a.m. and after 5 p.m., and all work performed on Saturdays, and Holidays, shall be paid at the overtime rate. Each carpenter must show proof of his overtime pay when requested to do so. Approval for deviation from this starting time may be given in accordance with the provisions of the Master Labor Agreement.

(c) Where more than one shift is worked in twenty-four (24) hours, no journeyman shall be permitted to work on more than one shift.

(d) No work shall be performed on Saturdays, Sundays, and Legal Holidays, except in cases of emergency, such as loss of life, destruction of property by flood or fire or where a ready-mix is to be delivered at a specified time, or where a completion date is involved, of where work is to be done in occupied stores on weekends and Legal Holidays, or where substantial property loss would occur.

For these exceptions a permit must be obtained from the Secretary-Treasurer of the Los Angeles County District Council of Carpenters, through an authorized representative of the Local Union in whose jurisdiction the work occurs. No permit is required for overtime work Monday through Friday, except holidays, providing the contractor pays the overtime rate for such work.

Any permit for work on Saturdays, Sundays or Holidays must be approved by the Los Angeles County District Council of Carpenters no later than 2:00 p.m. of the preceding Thursday.

(e) Members are not allowed to work overtime, evenings, Saturdays or Sundays for any other than their regular employer. Where overtime is necesary, additional men must be taken from the list of unemployed until the list is exhausted.

Respondent Local 25 is but one of many locals within Respondent District Council's jurisdiction. For a period of years Local 25 has been riven by contending factions. The bitter and ongoing internecine rivalry has found expression in contested internal union elections, allegations of impropriety and bad faith by one group against another, and the repeated invocation of the assistance of outside parties and public authorities including but not limited to multiple lawsuits, charges with the United States Department of Labor, contentions raised with the District Council and and the National Brotherhood, and charges filed with the National Labor Relations Board. Ill feelings run deep, positions are strongly and rigidly held, and, insofar as the witnesses at the trial revealed, members of each factions view their opponents with deep distrust and suspicion regarding most aspects of the administration of the Local. To the extent that the District Council has sided or appeared to side with one faction within Local 25 over the other, it too has become involved in the substantial and, as of the time of the hearing, continuing controversy and contention within the Local. To the extent the disputes aligned the incumbent administration of Local 25 against the District Council, the two entities experienced difficulties and disputes in an institutional context and the individuals experienced the difficulties which are a part of the instant case.

B. *The Allegations Against Respondent Local 25*

1. Respondent Local 25's agents

During the times relevant to the violations alleged, Local 25 had the following officers and agents: Kenny Scott, financial secretary-treasurer and assistant business representative; Robert Dale, president; James Engen, vice president; and Ronald Passman, business representative. Scott and Passman were involved in the operation of the dispatch process during the relevant time period. Generally Passman had control of the dispatching process and maintained the out-of-work register and announced requests for employees as required under the governing rules. Scott has no role in this portion of the dispatching procedure. As will be set forth in more detail infra, Scott became involved in the referral process on occasion where a name request was involved. Scott testified that he would on some occasions accept the paperwork tendered by the name requested employee or the employer's agent as required by the hiring hall rules and would issue and sign the necessary referral or clearance allowing the name requested individual to commence work. Scott testified that in considering name requests he, without exception, accepted without investigation or challenge the factual assertions that justified an employer request for named individuals under the hiring hall rules, i.e., the necessary facts which allowed a name request rather than an unnamed or general request to be filled under the hiring hall rules. Scott asserted he felt it was important not to invoke various niggling regulations which would operate to prevent employers from obtaining the carpenters of their choice. Scott made it clear that his laissez faire attitude and practice regarding the hiring hall process was confined to approving, without independent investigation, requests for named individuals by employers under the regulations quoted supra.

Passman to the contrary testified that he operated Local 25's hiring hall and applied its rules and procedures regarding need for employer justification of name requests rigorously. Thus he issued clearances under the rules only if the particular requesting employer and/or requested employee actually met the specific provisions of the hiring hall regulations which allowed the requested referral.

Scott, Dale, and Engen had run and been elected to office as part of a political faction or slate. Passman was not part of that faction; rather, at least at the time of the

events in controversy, he was associated with the District Council and was at least perceived as being opposed to the remainder of Local 25's incumbent leadership in the disputes discussed supra. Passman and Scott clearly think little of each other's integrity and each views the actions of the other with suspicion and disdain. The differences between the two in the manner they handled the hiring hall process are but part and parcel of the larger ongoing dispute noted supra.

2. Allegations of statements violating Section 8(b)(1)(A) of the Act

In paragraphs 22 and 23 of the complaint, the General Counsel alleges that Respondent Local 25, through Scott, on various dates threatened Local 25 members that they would not be referred through the hall to any employer because of their opposition to Scott and further that Scott threatened to expel political opponents from the Local.

Four individuals, Andres Garcia, Fornatty Bravatty, Felix Lemus, and Luis Mazariego, all members of Local 25, testified to conversations with Scott in which Scott indicated in various ways that he "protected," "took care of," or got jobs for his "boys" and that the members should align with him politically in order to obtain such benefits. Further, these witnesses testified that Scott suggested that his political opponents, those associated with Passman and the District Council, would not benefit from his protection or receive work which he controlled. Scott specifically denied promising the four men benefits predicated on friendship or political support. He further denied threatening the four men either with lack of work opportunities or loss of membership in the Local. Scott testified that he did have heated exchanges or engaged in diffident banter with the four men and other members of the Local who opposed the incumbent leadership but specifically testified that the statements attributed to him by the four simply did not occur.

It was evident at the hearing that Garcia, Bravatty, Lemus, and Mazariego were in disagreement with, opposed to, and suspicious of Scott and his allies. There was uncontested evidence of the four's political opposition to Scott and his faction in the Local as well as a rather extensive history of dispute and disagreement between the contending individuals including insulting exchanges and, in Lemus' case, a physical altercation with Scott. So, too, it was clear that Scott held the four and their political allies in contempt, had done so for a long period, and regarded them as his implacable opponents in matters regarding the Local.

Against this background of mutual hostility and suspicion, the allegations against Scott regarding threats made to these four individuals require resolution of strongly opposing versions of events. In reaching the findings set forth below, I do not rely entirely on demeanor evidence. This is so because I believe the hostility manifested between the participants could easily shape each individual's honestly held recollection of events so that such a recollection would not necessarily match the events as they had in fact transpired. All parties to this dispute seem to me to view the statements and conduct of the others so suspiciously as to increase the likelihood of miscommunication and miscasting of remarks and conversations. Thus while I found Garcia, Bravatty, Lemus, and Mazariego to be honest witnesses with sound demeanor,[3] I fully credit their testimony only to the extent noted infra. The same process of discounting must also apply to Scott who, I find, was so disdainful of the four individuals and so convinced that they would misstate events to his disadvantage that he might well have denied statements and actions attributed to him by the four based simply on a hostility to and suspicion of the opposing witnesses rather than on a studied review of his own recollections.

I credit the testimony of Garcia, Bravatty, Lemus, and Mazariego and discredit the contrary testimony of Scott, that Scott regularly suggested to them that his friends and allies benefited from his friendship as regards jobs and that his enemies and opponents conversely suffered. The testimony of the four proponents was generally consistent and corroborative in this regard and the statements attributed to Scott by them were unlikely to be misconstrued or miscommunicated. This finding is buttressed by my analysis of the relative demeanor of the contending witnesses as to this portion of their testimony. As to this testimony the four were markedly superior to Scott whose denials were unpersuasively hostile and reactive.

I discredit however the testimony of the four that Scott threatened to kick his enemies out of the Local and that he refused to accept dues payments from them. The various versions of events from the four in this regard as elicited by the General Counsel were not fully consistent with the unchallenged dues payment records of the Local. Further, the events occurred during the confusing period when the District Council and Local 25 were in dispute regarding the place for Local 25 dues payments. Given the confusion of the situation, the deep abiding suspicion between the individuals involved, and the possibility of some communication difficulties, I do not believe that the General Counsel has sustained his burden of proof on this allegation. Scott's denials in this regard are credited over the contrary testimony of the four. I find therefore that the conduct alleged in paragraph 23 as expanded at the hearing did not occur.

3. Allegation of hiring hall irregularities constituting violations of Section 8(b)(1)(A) and (2) of the Act

The General Counsel has alleged six separate incidents as violative of Section 8(b)(1)(A) and (2) of the Act. The General Counsel argues that Local 25, through Scott, in violation of the governing hiring hall regulations, allowed or acquiesced in improper named requests or clearances for individuals not entitled to such referrals. Respondent Local 25 challenges the General Counsel's contentions on both factual and legal grounds. Each incident is best presented separately, if briefly, in chronological order.

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[3] In so doing, I have considered and specifically rejected the argument of Respondent Local 25 that these and other individuals conspired to distort or even perjure their testimony in order to undermine Scott and the incumbent leadership of the Local.

a. *Duplessis to Morley*

There is no dispute that on August 9, 1982, Scott signed a work referral dispatching apprentice and Local 25 member Paul Duplessis to work at Morley Construction and that Duplessis in reliance thereon commenced work for Morley. At the time of the referral Duplessis had not signed the out-of-work list but, as an apprentice, see quoted regulations supra, was free to directly solicit work from employers and be referred on an employer's request without additional qualification.

Scott testified that his referral must have been in response to an employer's written request; however, no written request was locatable in Respondent Local 25's files.[4] Neither Duplessis nor any employer agent testified regarding the allegation.

b. *Shults to Mocon*

The facts as to this allegation were essentially undisputed. On August 18, 1982, Scott issued a referral to journeyman carpenter and Local 25 member Mike Shults for employment at Mocon Corporation. The referral was in response to an employer request on its letterhead signed by an agent of the employer, Superintendent R. McCullough, which stated:

> We would like to hire Mike Shults as a journeyman carpenter starting 8-19-82. We cannot hire him under our 25% clause but we do have a position for him if he can get dispatched.

McCullough testified that Shults sought employment at Mocon and was told that the employer did not wish to utilize its 25-percent clause option to obtain his dispatch but that he should utilize the normal dispatch procedures to obtain work. Shults, in McCullough's testimony, asked for a letter indicating there was a place for him at Mocon. McCullough testified he wrote the above-quoted request in an attempt to avoid invoking a 25-percent request intending to save such requests for other occasions. At the time of the dispatch, Mocon was eligible on the basis of its previous hiring to request Shults or any other qualified individual by name under the 25-percent clause.

c. *Fonsecas to Homecraft*[5]

Scott referred Messrs. David and Joseph Fonseca, father and son, to Homecraft on August 25, 1982. Earlier Johnson had called Scott and sought the referral of two carpenters without specifying particular individuals. Scott sent him the Fonsecas. Johnson had no additional conversations with Scott or other Local 25 agents before the Fonsecas went to work. The Fonsecas were not on the out-of-work list at the time and hence could not have been dispatched pursuant to a general call for carpenters. Since the Fonsecas had not previously worked for Homecraft they could only be referred under an employer's 25-percent clause name request. While there were later complicating events which resulted in a referral request subsequently being signed by an agent of the employer, there was no contention that such a written request preceded the Fonsecas' original referral.

d. *Vidmore to Ceco*

Scott referred David Vidmore to Ceco Corporation on September 16, 1982. The referral resulted from the following uncontested events. Vidmore, a nonunion job seeker, sought work at Ceco. Gary Gibson, Ceco's district concrete foreman, called Scott and informed him that he had a nonunion man he wanted cleared through the hiring hall. Scott told Gibson that Vidmore would have to satisfy Local 25's dues and initiation fee obligations and that Gibson should send Vidmore to the hall. Vidmore was instructed to go to the hall and there paid his dues and initiation fees. He was then referred by Scott to Ceco where he later started work. Scott did not know Vidmore personally at the time nor is there any suggestion Vidmore was known by or friendly with other Local 25 agents prior to these events.

e. *Engen and Joseph Fonseca to Tile Layers Local 18*

Tile Layers Local 18 determined to remodel its office building acting as an owner-builder. Sam Domenici, financial secretary and business agent of Tile Layers Local 18, telephoned Local 25 and spoke to Scott in late September 1982. Domenici testified he simply contacted the appropriate Carpenters hall to inquire about men.[6] Domenici told Scott he needed two carpenters, one to "run the job" and another to assist. Scott thereafter contacted James Engen who agreed to talk to Domenici about the Tile Layers' needs. Scott subsequently referred Engen to the Tile Layers job as foreman. Joseph Fonseca was referred by Scott as the other carpenter on the job. Domenici testified credibly he had requested neither individual by name and did not sign a name request for either individual.

f. *Macias, Alarcon, and the Fonsecas to Casillas*

Scott referred Robert Macias, Manuel Alarcon, and David and Joseph Fonseca to Casillas in mid-January 1983. Henry A. Casillas, the employer field superintendent, testified that following difficulty with previously dispatched carpenters and after experiencing difficulty in obtaining needed carpenter referrants from Local 25, he visited the Local 25 hall. There he spoke to Scott and requested the four men named above who were then cleared by Scott to the job. At the time none of the four

[4] Each faction of the Local sought to cast doubt on the other's honesty and integrity with respect to custody and control of Respondent Local 25's records.

[5] The following findings are based on uncontradicted evidence and the credited testimony of Jeff Johnson, the carpenter and upholstery foreman at the jobsite for Homecraft. Johnson traveled to the trial from another State to testify. He had no apparent reason to shape his testimony, exhibited a clear memory of events, and presented a sincere and convincing demeanor. I credit his version of events over the testimony of the Fonsecas, Dale, and Scott to the extent their testimony is inconsistent with Johnson's. These opposing witnesses were not the equal of Johnson in recollection or demeanor and each has a clear stake in the outcome of the litigation.

[6] At the time Tile Layers Local 18 was not signatory to a contract with Local 25 although there was never any dispute between the unions that a contract would be signed or that contract rates and procedures would be followed in any work done on the job.

was eligible for a name request and/or the 25-percent clause was not invokable by Casillas.

4. Analysis and conclusions

a. *The threats*

Having resolved the conflicting versions of events, supra, I find that Scott, an admitted agent of Local 25, threatened Local 25 members with diminished employment opportunities if they opposed him within Local 25 and with enhanced employment opportunities if they aided and supported him. It is conventional Board doctrine that such statements by a union agent involved in the hiring hall process violate Section 8(b)(1)(A) of the Act. *Steelworkers Local 1397 (U.S. Steel, Homestead Works)*, 240 NLRB 848 (1979). I so find here. I find the other threats alleged by the General Counsel did not occur.

b. *The hiring hall allegations*

(1) Positions of the parties

The General Counsel argues that Scott violated the hiring hall clearance procedures in order to improperly advance his political allies to the consequential detriment of the other users of the hiring hall referral system.[7]

The clearance situations discussed supra, in the General Counsel's view, demonstrate an effort by Scott to assist political allies by directing them to specific job opportunities which should have been filled from the out-of-work list. It is further contended that Scott, by allowing improper clearance requests, allowed jobs to be filled outside the referral process as defined by the hiring hall rules and regulations. The General Counsel argues that such irregular operation of the hiring hall demonstrated to those who used the hall that Scott was an individual whose favor must be curried if work were to be obtained.

Respondent Local 25 argues that Scott had a long-standing and benign practice of trust and acquiescence in filling employer requests for clearance of by name requested referrants and that this constant practice was applied without discriminatory motive or effect.[8] Further, Respondent Local 25 argues that the General Counsel has failed in each instance to demonstrate either that the hiring hall rules were breached or that improper motivation underlay the clearances issued by Scott. Respondent Local 25 emphasizes that there is no contention that Local 25 engaged in irregularities in referrals from the out-of-work lists, as opposed to the clearance system, and that the six situations alleged as violations, even if proved, constitute no more than occasional mistakes in processing referrals rather than a broadly based pattern or practice of circumvention of the hiring hall dispatching process by Scott or Local 25.

(2) Board hiring hall cases generally

Labor organizations operating exclusive hiring halls must do so in a manner free from arbitrary or invidious treatment of registrants. The Board has held that a union's power in the hiring hall setting is so great that any union action which prevents an employer's hire of an employee will be presumed to encourage union membership among those who perceive the union's actions and hence will be found to violate Section 8(b)(1)(A) and (2) of the Act. *Operating Engineers Local 18 (William F. Murphy)*, 204 NLRB 681 (1973). A union which demonstrates the fair and regular utilization of facially valid hiring hall regulations in determining the order of dispatch among registrants clearly establishes a sufficient defense to allegations of impropriety in the selection or rejection of applicants for employment referral. If, however, following proper rules is a defense to a hiring hall allegation, ignoring or violating such rules is not. The Board holds that where clear and unambiguous hiring hall regulations are ignored or violated so as to prevent an otherwise entitled individual from being dispatched to employment, without more, a prima facie violation of Section 8(b)(1)(A) and (2) of the Act has been established. *Electrical Workers IBEW Local 592 (United Engineers)*, 223 NLRB 899 (1976). The Board also applies this presumption of impropriety where the deviation from the hiring hall procedures results in the referral of individuals who were not in fact qualified for dispatch under the hiring hall rules. *Iron Workers Local 433 (AGC of California)*, 228 NLRB 1420 (1977), enfd. 600 F.2d 770 (9th Cir. 1979). See also *Millwrights Local 2834 (Atlantic Maintenance)*, 268 NLRB 150 (1983). The Board has recently found a violation of Section 8(b)(1)(A) where a union processed job request dispatches in a manner inconsistent with its hiring hall rules even though, as noted by the dissent of Member Jenkins, the processing was consistent with its established practice. *Operating Engineers Local 450 (AGC of Houston)*, 267 NLRB 775 (1983). Both the Board and the courts have found some dispatching procedures and practices violative of Section 8(b)(1)(A) of the Act even where there is insufficient evidence to find specific discriminatory acts in violation of Section 8(b)(2) of the Act. See, e.g., *Painters Local 277 v. NLRB*, 717 F.2d 805 (3d Cir. 1983), enfg. 262 NLRB 1336 (1982).

(3) The specific allegations

(a) *Duplessis to Morley*

Duplessis as an apprentice under the hiring hall regulations could solicit his own jobs and, having obtained an employer's dispatch request, was entitled to be immediately cleared to the job without the employer having to meet further requirements.[9] A written employer request

[7] It is both obvious and undisputed that if the clearance system is improperly manipulated to refer an individual to a job for which he or she is not entitled, that job would not be available to be filled through the regular referral process. Thus every improper clearance filled a job vacancy which would have been otherwise taken by another individual eligible under the hiring hall rules.

[8] Local 25 also argues that it was necessary to be flexible with employers so as not to force them, by overregulation, to go nonunion thus avoiding the hiring hall process completely. I reject this argument where the rational advanced seeks not to justify changes in the rules but merely to justify ignoring rules.

[9] This allegation is therefore not affected by Scott's testimony that he does not check the predicate facts necessary to allow any given employer

Continued

for Duplessis was therefore by its own terms sufficient to allow a clearance or dispatch to be issued by Scott under the hiring hall rules.[10]

The General Counsel's theory of a violation turns on the proposition that there was never an employer request for Duplessis and therefore the dispatch was in violation of hiring hall regulations. Scott testified that an employer request was submitted prior to his issuance of the clearance. However, no request could be located in Local 25's records, although such requests are normally maintained in the Local's files. No agent of the employer or Duplessis was called to testify on the matter by any party.

I will not draw the adverse inference sought by the General Counsel that no written request was submitted by the employer simply because Local 25 could not physically produce it. Local 25 did not refuse to produce the documents it was able to locate. Rather the record makes it clear Local 25 produced all records it had pursuant to a Government subpoena and no copy of the disputed employer request could be located. While the inference the General Counsel seeks here may be permissible, I decline to draw it where there is no other evidence of irregularity in apprentice dispatching, no evidence of political alignment with or favoritism between Duplessis and Scott, and where there is no evidence of other suspicious circumstances regarding the particular dispatch. The General Counsel has not in my view overcome the testimony of Scott that there was such a written request. Impliedly, the General Counsel suggests that Scott or another agent of Local 25 became aware of Morley's need for an apprentice and contacted Duplessis or that for some reason Scott wished to favor Duplessis. There is no testimony or other evidence that this is so; indeed no apparent motive exists why Duplessis would be so favored by Scott. Absent evidence, not clearly unavailable to the General Counsel on this record, from the employer or Duplessis, suggesting that Scott in some way chose Duplessis without an employer's prior request for him or caused the employer to ask for Duplessis in particular, I find the General Counsel has not met his burden of proof as to this allegation.[11] Therefore I shall dismiss the allegation.

to make a name request, such as the existence of a recent previous employment relationship between the employer and the requested employee or the eligibility of the employer for a 25-percent request. This is so because there is no factual assertion to verify as to either the apprentice or the requesting employer.

[10] The General Counsel argues that a potential referrant must be on Local 25's out-of-work list to be eligible for dispatch pursuant to an otherwise proper employer name request. This argument is based on the hiring hall regulation language that a requested individual "must be dispatched regardless of his position on the out-of-work list." I reject the General Counsel's argument and find, in agreement with Local 25, that this language allows someone not on the list to accept an otherwise proper name request dispatch. To hold otherwise would be to give this language more weight than a fair reading indicates. I take the language to be an indication of the breadth of the name request exception to regular dispatch procedures and not an additional qualification which must be met to obtain such a dispatch.

[11] Thus I find that Local 25 has established, by the credited testimony of Scott, that the dispatch was pursuant to hiring hall rules which rules were not under attack by the General Counsel.

(b) *Shults to Mocon*

The validity of Shults' dispatch must be determined by examining the language of the employer request which Scott had before him at the time he issued the clearance. The employer's subjective motive in preparing the request is irrelevant as Scott had only the request itself before him when he issued the dispatch. Since the employer was eligible for a 25-percent dispatch, the employer could have obtained Shults by name under that clause. It could not properly obtain him by name request in any other way. The General Counsel argues that the language of the request, "We cannot hire him under our 25% clause but we do have a position for him if he can get dispatched," is clearly a statement by the employer to the Union that it was not requesting Shults under the 25-percent clause. Local 25 argues that the request is ambiguous and could be and was reasonably read by Scott to mean that the employer did not believe that it was then qualified to obtain Shults by name request under the 25-percent clause but hoped it could obtain him in any case. Thus argues Local 25, Scott, knowing the employer was in fact eligible to request 25 percent by name dispatch, could properly have sent Shults out pursuant to what he took to be a 25-percent request. A mistake of this type should not, in Local 25's view, rise to the level of a violation of the Act.

I do not find the interpretation suggested by Local 25 to be so unreasonable as to reject it out of hand. The employer's request is inartful and susceptible to two interpretations. If both interpretations are at least not unreasonable, Local 25 should not be held to have violated the Act because it chose the wrong one. I accept the argument of Local 25 concerning the request. I have found the interpretation advanced by Local 25 not to be outside the realm of reason. Thus, the rules were not clearly or deliberately violated. Further, there is no evidence demonstrating that Scott intended to fudge or fiddle with the process in referring Shults. Given the burden the General Counsel carries to show irregularity, I find he has failed here. Accordingly, I shall dismiss this allegation of the complaint.

(c) *The Fonsecas to Homecraft*

I have found that the Fonsecas were dispatched to Homecraft at a time when neither individual was entitled under the hiring hall rules to such a dispatch without a 25-percent request. Such a request was not made at the time of their dispatch. Under the cases cited, supra, the General Counsel's prima facie case of a violation of Section 8(b)(1)(A) and (2) is therefore sustained. There being no viable defense tendered to the prima facie case, given the evidentiary resolutions made, supra, I sustain the violations alleged.

(d) *Vidmore to Ceco*

Vidmore was cleared to Ceco after the employer notified Scott he had a nonunion man he wanted cleared. The procedure utilized was admittedly inconsistent with hiring hall regulations. While Local 25 adduced certain evidence regarding procedures and practices used by

area Carpenter Locals when encountering a nonunion employee on a job covered by the contract, Vidmore was not an employee discovered on the job. Rather he was an applicant for employment who had not yet begun work. No evidence was offered by Local 25 which would justify a deviation from hiring hall procedures in such an instance. Such conduct, in violation of hiring hall rules and without justification, violates Section 8(b)(1)(A) and (2) and I so find.[12]

(e) *Engen and Joseph Fonseca to Tile Layers Local 18*

Scott referred Engen and Joseph Fonseca to the Tile Layers Local 18 job. Engen as foreman could only be cleared pursuant to an employer request which had not been received. Fonseca could not under any circumstances have been properly dispatched by name under the hiring hall regulations. For the reasons noted supra, the General Counsel has achieved a prima facie case as to each individual. There is essentially no effective defense raised as to Fonseca's dispatch which I find violated Section 8(b)(1)(A) and (2) of the Act.

As to Engen, additional factors exist. First a foreman[13] may be requested for dispatch without further qualification by an employer. The employer here did not do so at the time the employment relationship with Engen started. However, at the time Engen began work, no contract had been signed between the parties and there was some question as to when Engen actually started paid work. Engen had initially met with and advised the employer concerning how to organize and prepare the job. It is perhaps not unusual for fellow trade union officers to so assist one another without recompense as occurred here initially, Scott's initial sending of Engen, Local 25's vice president, to Tile Layers Local 18 seems to me to have been at least in part motivated by a desire to be of fraternal assistance to a fellow trade union by sending out a Local 25 official who would advise and counsel rather than a purely business or contractual relation. The fact that Engen met with and advised the employer without initial payment confirms the semicommercial aspect of this relationship. Once Engen was advising without being paid, it is perhaps not wholly unjustified to assume he would continue as foreman. The clearance issued only after Engen had been in considerable contact with the employer and and was apparently withheld until the contract had been signed. Given these circumstances, I do not find that Scott's issuance of the clearance to Engen may be viewed purely in a commercial or contractual context. For these reasons, and given the informal precontractual commencement of the relationship between Engen and Tile Layers Local 18, I find that Local 25 has established a sufficient defense to the allegation that Engen was improperly referred. The situation here simply cannot be regarded as a stock violation of hiring hall regulations. I find the dispatch, even if technically incorrect, not to rise to the level of a Board violation. Accordingly, I shall dismiss the allegation as to Engen.

(f) *Macias, Alarcon, and the Fonsecas to Casillas*

Local 25 argues that the employer had not been able to obtain referents through the hiring hall and therefore was free to hire whomever it desired thus justifying the dispatches at issue. I find the evidence insufficient to find that Casillas had in fact placed a request which, in not being timely filled, justified "off the bank" hiring. Even were this so however, Local 25 could still not refer four individuals on *pre-hire* by-name requests, when there were potential referents available on the out-of-work list. Were the employer to have hired the four "off the bank" and away from the hall perhaps a different situation might obtain. Here however he first consulted with the Local then sought to hire the men. In such a case the out-of-work list should have been utilized. For Scott not to have done so, on these facts, violates Section 8(b)(1)(A) and (2) of the Act and I so find.

5. Remedy as to Local 25

Having found that Respondent Local 25 has engaged in certain unfair labor practices, I shall order it to cease and desist therefrom and to take certain affirmative action designed to effectuate the purposes and policies of the Act including the posting of remedial notices.[14]

I shall order Respondent Local 25 to make whole any referral applicants who suffered losses resulting from the illegal referral conduct found violative of Section 8(b)(1)(A) and (2) of the Act, supra. This is in accordance with the Board's decision in *Iron Workers Local 433 (AGC of California)*, 228 NLRB 1420 (1977), enfd. 600 F.2d 770 (9th Cir. 1979).

I shall also require Respondent Local 25 to maintain referral records as required in *Iron Workers 433*. I recognize that *Iron Workers Local 433* involved a pattern and practice of misconduct which far exceeds the violations found herein. I reach the same result here however because of the unusual circumstances existing at Local 25. First there has been an ongoing, heated, and widely publicized internal dispute within the Local which has resulted in the suspicion among at least some members that the dispatching process has been manipulated. This suspicion has been encouraged by the statements of Scott found violative, supra. It is not disputed that clearance practices varied depending on the Local 25 agent involved, i.e., Passman and Scott, and that both Local 25 members and District Council agents were involved in

[12] Vidmore was unknown to Scott at the time. I find however that Scott's, in effect, personal waiver of hiring hall regulations inevitably created a situation where members and nonmembers alike would soon come to realize that beyond and, indeed, despite, the hiring hall rules and regulations, employment advantage could be achieved by currying favor with Scott. Such a motive and such a result are prohibited under the Act. Scott's ability to waive rules was "a warning to employees that the favor and goodwill of responsible union officials is to be nurtured and sustained." *Longshoremen ILA Local 1581*, 196 NLRB 1186, 1187 (1972), quoting *Plumbers Local 657 (Mid-Pacific Construction)*, 161 NLRB 1351 (1966).

[13] I find Engen was in fact a foreman with supervisory responsibilities on the Tile Layers Local 18 job. The General Counsel's arguments to the contrary are rejected.

[14] Consistent with the Board's policy set forth in *Laborers Local 383 (AGC of Arizona)*, 266 NLRB 934 (1983), notices shall be in English and such other languages as are determined by the Regional Director to be appropriate.

disputes regarding the propriety of certain dispatches. In this context, Scott testified that he regularly disregards the hiring hall requirements for name requests from employers and, in effect, acquiesces in all such employer requests irrespective of their propriety. Certain of those actions have resulted in violations of Section 8(b)(1)(A) and (2) of the Act as found supra. Scott's admitted conduct during the period, if pled as a separate violation of Section 8(b)(1)(A) of the Act, could well have been found to independently violate the Act. *Painters Local 277 v. NLRB*, 717 F.2d 805 (3d Cir. 1983), enfg. 262 NLRB 1336 (1982). While such a contention was not pled and, accordingly, I have made no finding of a violation in this regard I find it proper to consider this evidence in fashioning a remedy for the violations found. *NLRB v. Plumbers Local 403*, 710 F.2d 1418 (9th Cir. 1983), enfg. 261 NLRB 257 (1982). Thus I shall require the recordkeeping requirements ordered in *Iron Workers Local 433*, supra. On the same grounds I shall further require that the records be maintained in a public place in the hiring hall during part of each business day so that referral applicants and other interested individuals may inspect said records and satisfy any doubts and fears about the properity of clearances issued by Local 25. Only in this manner, I believe, will the suspicion, distrust, and fears regarding the dispatching process at Local 25 generated by the misconduct of its agents be dissipated.

C. *The Allegations Against Respondent District Council and Respondent Local 2435*

1. Background

In 1982 and early 1983 Local 25 and the District Council were at loggerheads concerning Local 25's obligation to remit certain per capita taxes to the District Council. As a result the District Council, invoking section 14 of its bylaws, quoted supra, refused to issue workcards for the first quarter of 1983 to Local 25, thus preventing Local 25 from issuing such cards to its members.[15] The District Council did however directly issue cards to those Local 25 members who paid their dues directly to the District Council rather than to Local 25.

Local 25 responded to the District Council's refusal to issue workcards in at least two ways. First Local 25 caused its own workcards to be printed. These cards were similar in form, style, and general appearance to the District Council issued workcards save that they bore the insiginia of Local 25 rather than that of the District Council. The cards printed by Local 25 were for calendar year 1982 but were also issued to members for the first quarter of 1983 with the numeral "2" in 1982 overwritten as a "3." Such a card was issued to Dale. At least in the case of James Engen, Local 25 took a different tack. Scott issued Engen a first quarter 1983 card which bore the District Council's emblem and Local 25's name and address. It appears to be a District Council issued workcard for the first quarter of 1983 issued to another individual which was thereafter altered to bear Engen's name and social security number. The card which is off-white in color was altered through the use of opaque or "white-out" typewriter error correction solution to cover up the earlier name and social security number entries. Engen's name and social security number were then superimposed over the blanked out entries. Because of the variation between the card's color and the white-out coating, the card upon even a cursory examination appeared rather crudely modified or altered.

2. Events

a. *Robert Dale*

Robert Dale, then president of Local 25, was employed by Steelform in January 1983. On Thursday, January 13, 1983, Dale and other employees were asked by a Steelform foreman if they wanted to work on the following Saturday. Dale and others agreed and Dale's Local 25 printed quarterly workcard, described supra, as well as the workcards of other employees, were collected so that necessary District Council clearance could be obtain for Saturday work.[16] Dale's card reflected dues paid through February 1983. The following day Dale was informed by the job steward that the District Council's assistant to the executive secretary, James Flores, an admitted agent of the District Council, had retained his card and that the District Council had refused to issue him a permit for Saturday work. Flores testified that on receiving Dale's Local 25 printed quarterly workcard he telephoned Local 25 in an attempt to verify the currency of Dale's dues payments inasmuch as the District Council did not recognize the validity of the Local 25 card for that purpose. Consistent with his past experience when telephoning Local 25, Flores was unable to reach a knowledgeable agent of Local 25 and his call was not returned. Based on a lack of corroboration of Dale's dues currency, Flores withheld issuance of a Saturday work permit. As a consequence of the District Council's failure to issue the permit, Dale was not given the opportunity to work that Saturday.

Dale testified that he thereafter obtained a duplicate of his Local 25 workcard and, when Saturday work was offered by the employer the next week, again agreed to work and submitted his new card to the District Council under the same procedure and with the same ultimate result. Flores testified he had no recollection and the District Council had no record of this second incident. I credit Dale's testimony in this regard. Dale's demeanor was sound and his recollection sure. He would have been unlikely to misrecall such an event and Flores could easily have simply forgotten the second occurrence. Based on Dale's testimony I find he was denied two Saturday work opportunities as a result of the District Council's failure to issue him Saturday work permits.

[15] The quarterly workcards are wallet size bearing the emblem of the District Council with space to enter the name, address, and social security number of the member, the name and address of the particular local, and space for the entry of a receipt stamp imprint acknowledging payment of dues for January, February, and March 1983. At the time dues are paid, the date of payment is entered on the member's card so that the card becomes an official record of dues payments.

[16] The practice is consistent with the rules quoted supra. The General Counsel does not challenge the propriety of this procedure.

b. *James Engen*

James Engen, then vice president of Local 25, had been a previous employee of Moran Construction. In February 1983, Engen obtained from that employer a rehire request form directed to Local 2435 which requested that Engen be dispatched to the Moran job.[17] On February 22, 1983, Engen presented this request to Local 2435's business agent and admitted agent William (Red) Egan at Local 2435's offices along with his quarterly workcard, described supra, which indicated current dues payments. Egan took the workcard, examined it, and then left the wicket. Egan showed the card to his colleague, Steven Markasich, financial secretary of Local 2435, and they agreed the card has been altered. Markasich then telephone the office of the District Council and spoke to Flores. Markasich asked Flores if a District Council workcard, which had been whited out with a new member's name and social security number typed in, was valid or should be honored. Flores asked the local named on the card and was told it was a Local 25 card. The cardholder's name was not mentioned by Markasich to Flores at any time. Flores told Markasich that the card had been altered, was invalid, and was not to be honored. Flores also told Markasich that the cardholder should be referred to the District Council's office so that the District Council could "take a look at the card." Markasich reported the substance of the call to Egan who returned to Engen at the window and returned his card. Egan told Engen his card had been altered and that he should go to the District Council and "clear up" the matter. Engen left and took no further action. He did not receive a dispatch to Moran Construction nor commence work for them.

3. Analysis and conclusions

a. *Positions of the parties*

The General Counsel argues that the per capita tax delinquency of Local 25, if any, is not a defense to the District Council's refusal to issue quarterly workcards to Local for reissuance by the Local to its members.[18] The General Counsel argues further that the general refusal by the District Council to issue cards to Local 25 violates Section 8(b)(1)(A) of the Act and that the individual acts of discrimination against Engen and Dale based on their failure to possess such cards violate Section 8(b)(1)(A) and (2) of the Act. The General Counsel lastly argues that Local 2435 bears joint and several liabilities with the District Council for the failure to dispatch Engen.

Respondents Local 2435 and District Council contend that the District Council's rules permit and justify the withholding of workcards from delinquent locals and that Local 25 was such a local. Further, they argue that Engen presented an obviously altered card to Local 2435, was apparently attempting to perpetrate a fraud on the hiring hall system, and thereafter refused a reasonable invitation to "clear up" the matter by going to the office of the District Council. As to Dale, the District Council argues that the locally printed workcard presented by Dale in support of his claim of entitlement to Saturday work was unofficial and ultra vires and thus therefore was properly ignored. Further they note Flores called Local 25 regarding Dale's dues currency but was not able to confirm his membership or lack thereof due to Local 25's general refusal to communicate with District Council officials.

b. *The District Council's withholding of quarterly workcards*

The General Counsel alleges the District Council's refusal to issue workcards for the first quarter of 1983 to Local 25 as a separate and independent violation of Section 8(b)(1)(A) of the Act. I reject this contention. The internal administration of financial transactions between subunits of the United Brotherhood including Local 25 and the District Council is clearly without the purview of the Act so long as the employment relationships of members are not affected thereby. I view the withholding of quarterly workcards from Local 25 by the District Council, whether for a valid, invalid, or for any reason, also falls outside the Act's reach unless and until there is a demonstrable nexus between the withholding of the cards and an effect on a member's employment relationship. The General Counsel's complaint alleges interference with such employment only as to Dale and Engen. Those allegations are based on additional acts and conduct by Respondents' agents, were separately pled, and are treated separately, infra. As to the instant allegation, there is no allegation pled or sustained by the General Counsel on this record that the District Council's general refusal to issue quarterly workcards to members of Local 25 adversely affected other members' employment relationships. Thus I shall dismiss this allegation.[19]

c. *Allegations as to Dale*

In light of the stipulations and agreements of the parties, the issue as to Dale is quite narrow. The parties agree that Saturday work could properly be denied to an employee not current in his or her union dues payments which are required under the union-security clause of the collective-bargaining agreement. There is no contention that dues payments made directly to Local 25 do not satisfy this union-security dues obligation or that Dale was not then current in his dues. There is no contention, nor

[17] There is no dispute this was a permissible request for which Engen, aside from the dues and workcard issue, was qualified as a previous employee under the hiring hall rules.

[18] There was no contention by the District Council that Local 25 members could not properly satisfy their dues obligations by payment of dues directly to Local 25. While the District Council had issued a memorandum to Local 25 members giving them the option of paying their dues at the District Council's offices neither the memorandum nor any other District Council communication to Local 25 members suggested that dues must be paid to the District Council or that dues paid directly to Local 25 were invalid.

[19] A separate issue is one of due process, for Respondents were not put on notice by the pleadings that the General Counsel was contending that Local 25 members other than Dale and Engen were injured as a result of their conduct. Since this matter was not otherwise fully litigated I would also decline to fine a violation for this reason. *Plumbers Local 403 (Pullman Power Products)*, 261 NLRB 257, 265-266 (1982).

could there be under Board law, that the District Council was privileged to adversely affect the job referral opportunities of individuals because they belonged to a local in disfavor or in financial arrears with the District Council or because members chose to pay their dues at Local 25 rather than at the District Council. Given all the above the narrow issue is whether or not the District Council, through Flores, had a right under all the circumstances to act as if Dale was not current in his dues payments and deny him a Saturday work permit.

Initially, it is clear and I find that the District Council could in no way conclusively rely on the fact that Dale did not have a quarterly workcard issued by the District Council to conclude that Dale was not current in his dues. This is so because it was the District Council that had withheld such cards from Local 25 and Dale was a known Local 25 officer. Thus the District Council knew or should have known that Dale could not obtain such a card from Local 25. Indeed, Dale's possession of the "homegrown" workcard is itself significant additional evidence of the unavailability of a regular workcard. Further, on the facts of this case, I find that the District Council cannot argue that the apparent failure of Local 25's agents to communicate by telephone with agents of the District Council in any way assists the District Council in its defense herein. Simply put, the real or apparent sins of a local union, here Local 25 and its refusal to talk to the District Council, cannot in any way be relied on by the District Council to adversely affect an employee's employment relationship. This is so as to Dale even though he was at the time the president of Local 25.

As noted in the cases cited, supra, in my analysis of the portion of this case involving Local 25 as a respondent, a union bears the burden of showing justification whenever it prevents an employer from hiring a particular employee. Such a burden equally lies where, as here, the District Council prevented Dale from working on Saturdays. Since Dale's dues were in fact current, the District Council's only defense is that Dale did not adequately demonstrate this fact to the District Council. Since there is no dispute, and I find, that Dale did all he was asked to do by the District Council and all that he reasonably believed necessary under the circumstances to show he had paid his dues, I find that the District Council has not met its burden here. In making this finding, I do not hold that Flores of the District Council was obligated to rely on the quarterly workcard printed by Local 25 and presented by Dale. Rather, I hold that the District Council, on this record, was obligated to ask Dale for more than his workcard if it did not intend to rely on it.[20] The District Council cannot hold that Dale has failed to show the currency of his union membership where it asked nothing more of him.[21] As noted, the actions or inactions of Local 25 cannot be relied on by the District Council to justify taking adverse action against Dale where it did not communicate further with Dale or in any way seek from him additional proof of his claim, evident on the face of the workcard, that he was current in his dues. Thus the Flores' phone call to Local 25 does not provide a defense here. Accordingly, I find that the District Council caused an employer, Steelform, to discriminate in regard to the conditions of employment of an employee, Robert Dale, for reasons other than the employee's failure to pay union dues pursuant to a valid union-security clause and, in so doing, the District Council violated Section 8(b)(1)(A) and (2) of the Act.

d. *Allegations as to Engen*

There is no dispute that Engen was entitled to be dispatched to Mocon if he were current in his dues. There is also no dispute that he was in fact current in his dues at the time he was refused dispatch. Again the issue in this aspect of the case is whether Respondent Local 2435 or Respondent District Council or both were justified in refusing to grant Engen a dispatch on the peculiar facts of the case.

As noted in my analysis of the Dale incident, supra, Board cases assign to Respondent Local 2435 and the District Council the burden of justifying their refusal to grant the employer's dispatch request. Further, as I held supra, the delinquencies of Local 25 may have no legitimate effect on Local 25's members' employment rights. Further, for the same reasons, the fact that Engen did not have an unaltered District Council quarterly workcard for the first quarter of 1983 could not by itself justify either Respondent denying Engen a dispatch. Again, this is so because the refusal to issue such cards was based on the Local 25 delinquencies and not the misconduct or dues delinquencies of Local 25 members including Engen. Thus the issue here is also very narrow: Could either or both Respondent 2435 and Respondent District Council justify their individual refusals[22] to dispatch Engen on the card he submitted given the other information known by each Respondent at the time the refusal was made.

It is useful to consider what was known or should have been known by each Respondent at the time the dispatch request was refused. Each Respondent knew that the card submitted bore Local 25's name. The District Council directly knew of its ongoing dispute with Local 25, the refusal of the District Council to issue workcards to Local 25, and the existence of Local 25's specially printed workcards. I find Respondent Local 2435 had the same knowledge.[23] Respondent Local 2435

[20] See *Electrical Workers IBEW Local 3 (Mulvhill Electric Contracting)*, 266 NLRB 224 (1983), enfd. mem. 112 LRRM 1360 (2d Cir. 1983), where a union's delay in issuing of a workcard caused a member to miss work and resulted in the finding of a violation of Sec. 8(b)(2) of the Act.

[21] Were it necessary to do so, I would further find that the District Council had good reason to believe that Dale was in fact current in his dues. It clearly knew Dale was an officer of Local 25 for he had been one of the officers of that Local who had been in continuing dispute and litigation with the District Council regarding the governance of the Local. Such an officer, in the middle of intraunion political and legal conflicts, would be likely to keep current in his dues for tactical reasons if for no other.

[22] The District Council's instructions to Local 2435 to refuse to honor the workcard presented by Engen is legally equivalent to a similar refusal by the District Council to dispatch him.

[23] I credit the testimony of Engen that Egan started their conversation with the statement that Local 2435 was not accepting Local 25 workcards. Such a statement demonstrates a knowledge on Egan's part of the above events and circumstances.

had direct knowledge that Engen was an official of Local 25 and that he was in fact the person identified on the altered workcard.[24] The District Council did not know the purported Local 25 member involved since this information was not communicated in the telephone call between Local 2435 and the District Council. Neither Respondent had information which would suggest that the card was other than a simple forgery. I find that they had no reason to believe the card had been issued by Local 25 since that Local had been issuing its own specially printed cards.[25]

Respondents emphasize that their actions in refusing to grant the dispatch were taken in response to the apparently forged card. They note further the action was limited to asking Engen, the tenderer of the card, to go to the District Council, the issuer of the card, to "clear up" the matter. Thus they imply that, had Engen gone to the District Council, he would have been dispatched forthwith. Unions may properly withhold referral opportunities to members because of such members' interference with or conduct inconsistent with proper administration of hiring hall referral rules. *Boilermakers Local Lodge 40 (Envirotech Corp.)*, 266 NLRB 432 (1983). If Respondents, or either of them, refused Engen based on the obvious irregularities of his workcard and his apparent misconduct in altering and then uttering such a card then, in my view, they have not violated the Act, irrespective of Engen's entitlement to the dispatch otherwise. If Engen were denied the dispatch rather because he was one of the Local 25 members who had failed and refused to avail himself of the option to pay his dues at the District Council—thereby receiving a standard District Council quarterly workcard, then Engen was denied an employment opportunity for improper reasons unrelated to any argued dues delinquency. The ultimate question is one of motive and, on this record, one of fact.

Considering the entire sequence of events, I am satisfied that Local 2435 did not deny Engen his dispatch either because of doubt regarding the currency of his dues or because of a belief that he had engaged in misconduct by altering and uttering the workcard. Egan told Engen at the beginning of the conversation he would not honor Local 25 workcards, he asked no questions of Engen about the currency of Engen's dues nor the circumstances under which Engen obtained the card in question. It is true that Engen volunteered no information on these matters to Egan; however, Board cases place the duty of inquiry in such circumstances on the union not the member. Based on the record as a whole, I find that Local 2435 would not have dispatched Engen unless he had in his possession a District Council issued quarterly workcard and that Local 2435 knew that Engen, Local 25's president, was likely current in his dues but could not obtain the necessary card without paying his dues directly with the District Council. Thus I find Local 2435 refused Engen his dispatch for an improper reason not related either to arguable misconduct or to dues delinquency and in so doing violated Section 8(b)(1)(A) and (2) of the Act.

My findings and rationale in this matter apply equally to Respondent District Council. While the District Council did not know of the identity of the cardholder, it had the other information possessed by Local 2435 and took, by instructing Local 2435 to refuse the dispatch, the same adverse action against Engen. The District Council did not seek to inquire about the origin of the card or the dues currency of the cardholder. The District Council, through Flores, well knew or should have known that the cardholder was most likely a Local 25 member who chose not to pay his dues at the District Council offices. While Respondents argue the referral of Engen to the District Council office to "clear up" his card is evidence of a benign motive by Respondents, in fact the suggestion that Engen go to the District Council office rather than to Local 25 to "clear up" the matter, under all the circumstances and especially where the location of dues payments involved the taking of sides in an internal union dispute, was an assertion of the ascendancy of the District Council over Local 25. Such acts of political manuever, however proper in purely internal matters, violate Section 8(b)(1)(A) and (2) of the Act where the result adversely affects the individuals' employment opportunities. I so find here.

e. *Summary*

I have found that the issuance or nonissuance of quarterly workcards by the District Council to Local 25 for reissuance to its members is not a matter within the purview of the Act when employment rights are not affected. I have therefore dismissed the allegation that the District Council wrongfully withheld such cards from Local 25. I have further found however that the employment rights of dues paid members of Local 25 could not be diminished because those members did not possess a workcard. More particularly I found that the District Council denied Dale Saturday work opportunities and that the District Council and Local 2435 denied Engen a dispatch opportunity, not because of those employees' dues delinquency or because of hiring hall misconduct, but rather because each did not possess an unaltered District Council issued workcard. I have found such conduct unjustified and have further held it to violate Section 8(b)(1)(A) and (2) of the Act.

4. Remedy as to Local 2435 and the District Council

Having found Respondents Local 2435 and District Council have each engaged in certain unfair labor practices, I shall order each to cease and desist therefrom and take certain affirmative action designed to effectuate the purposes and policies of the Act including, based on the authority cited, supra, the posting of a notice in English and such other language as the Regional Director for Region 31 deems appropriate.

[24] Egan has dispatched Engen previously and clearly knew him on sight.

[25] This being so it is irrelevant that the card was in fact prepared by Local 25 or that Engen had been instructed by Scott not to draw attention to the card's apparent irregularities. Local 25 is not named as a Respondent as to these events. Both Local 2435 and Respondent District Council were entitled to act on the circumstances as they reasonably appeared at the time.

I shall order the District Council to make whole Robert Dale for any injury he suffered as a result of its refusal to issue him a Saturday permit. I shall order the District Council and Local 2435, jointly and severally, to make Engen whole for any injury he suffered as a result of by being denied the dispatch to which he was entitled. Said payments shall be calculated in the manner set forth in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), and shall bear interest in accordance with *Florida Steel Corp.*, 231 NLRB 651 (1977); see generally *Isis Plumbing Co.*, 138 NLRB 716 (1962). I shall also include the expunction remedy recently approved by the Board in *Boilermakers Local 27 (Daniel Construction)*, 266 NLRB 602 (1983).

On the foregoing findings of fact and on the entire record, I make the following

CONCLUSIONS OF LAW

1. (a) Mocon Construction is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

(b) Homecraft Drapery and Upholstery Corporation is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

(c) E. B. Casillas Concrete Construction Company is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

(d) Ceco Corporation is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

(e) Steelform Contracting Co. is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

(f) Moran Construction is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

(g) Morley is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

(h) M. J. Brock is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

(i) Tile Layers Local 18 is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. Respondents, and each of them, are labor organizations within the meaning of Section 2(5) of the Act.

3. Respondent Local 25, by threatening members with enhanced or diminished employment opportunities depending on their support of, or opposition to, Local 25 officers violated Section 8(b)(1)(A) of the Act.

4. Respondent Local 25, by wrongfully dispatching or clearing the following individuals to the following employers in violation of the hiring hall rules, caused the employers to discriminate against unnamed individuals on the out-of-work list and thereby violated Section 8(b)(1)(A) and (2) of the Act:

(a) David and Joseph Fonseca to Homecraft
(b) David Vidmore to Ceco
(c) Joseph Fonseco to Tile Layers Local 18
(d) Roert Macias, Manuel Alarcon, and Joseph Fonseca to Casillas

5. Respondent District Council, by refusing to allow Robert Dale to work on Saturdays, caused Steelform to discriminate against Dale concerning his terms and conclusions of employment and thereby violated Section 8(b)(1)(A) and (2) of the Act.

6. Respondent Local 2435 and Respondent District Council, by refusing to dispatch James Engen, caused Moran to discriminate against Engen concerning his terms and conclusions of employment and thereby violated Section 8(b)(1)(A) and (2) of the Act.

7. The above-enumerated unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(2), (6), and (7) of the Act.

8. Respondents have not otherwise violated the Act as alleged.

Based on the foregoing findings of fact and conclusions of law and on the entire record, I issue the following recommended[26]

ORDER

A. Respondent Carpenters Union Local No. 25, United Brotherhood of Carpenters & Joiners of America (AFL-CIO), its officers, agents, and representatives, shall

1. Cease and desist from

(a) Threatening members with enhanced or diminished employment opportunities depending on their support for or opposition to Local 25 officials.

(b) Operating its exclusive hiring hall in disregard of the hiring hall rules, regulations, and provisions.

(c) Dispatching or clearing individuals in violation of said hiring hall procedures.

(d) Dispatching the wrong individuals and, as a consequence, denying dispatch to individuals otherwise entitled to dispatch pursuant to the hiring hall rules.

(e) In any like or related manner restraining or coercing employee applicants or Local 25 members in the exercise of the rights guaranteed them in Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the purpose and policies of the Act.

(a) Operate its exclusive hiring hall in a nondiscriminatory manner in accordance with the rules and regulations of its hiring hall.

(b) Make whole those individuals who were unlawfully refused or denied dispatch, for any loss of earnings and benefits they suffered as a result of the improper dispatch or refusal of individuals listed in Conclusions of Law 4, in the manner set forth in section III,B,5, of this decision entitled "Remedy as to Local 25."

(c) Maintain a book or semipermanent type of record to reflect accurately, fairly, and nondiscriminatorily, the operation of the referral system of the hiring hall. Said book will contain the specific designation of all name requests for referents including the name of the requesting employer, the requesting employer agent, the basis of the

[26] If no exceptions are filed as provided in Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

name request—such as 25-percent clause—the name of the requested referents and the qualifications of the referent for the named request dispatch, if appropriate, i.e., date of previous employment if a rehire request. Said book will be maintained in the public areas of the hiring hall for at least 2 hours each business day and this practice shall be maintained for a period of not less than 1 year following its implementation.

(d) Preserve and, on request, make available to the Board or its agents for examination and copying, all records pertaining to employment through its hiring hall, and all records relevant and necessary for compliance with this Order.

(e) Post at its business office, hiring hall, and meeting places copies of the attached notice marked "Appendix I."[27] Copies of this notice, in English and such other languages as determined by the Regional Director for Region 31, after being signed by its authorized representative, shall be posted immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employee applicants and members are customarily posted. Reasonable steps shall be taken by Local 25 to ensure that the notices are not altered, defaced, or covered by other material.

(f) Notify the Regional Director in writing within 20 days from the date of this Order what steps Local 25 has taken to comply.

B. Respondent Carpenters Union Local 2435, United Brotherhood of Carpenters & Joiners of America, AFL-CIO, its officers, agents, and representatives, shall

1. Cease and desist from

(a) Failing and refusing to dispatch dues paid members of Local 25 of the United Brotherhood of Carpenters and Joiners of America, AFL-CIO, because they do not have a workcard from the District Council at a time when the District Council was not uniformly providing such workcards to Local 25 members.

(b) In any like or related manner restraining or coercing employee applicants or local union members in the exercise of the rights guaranteed them in Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the purpose and policies of the Act.

(a) Jointly and severally with the District Council make whole James Engen for the losses of earnings and benefits he sustained as a result of its failure to refer him to employment at Moran Construction, with interest, as set forth in the section of this decision at section III,C,4 entitled "Remedy as to Local 2435 and the District Council."

(b) Expunge from its files any reference to the failure and refusal to dispatch James Engen to Moran Construction and notify him, in writing, that this has been done and that evidence of its failure and refusal to dispatch him shall not be used as a basis for future action against him.

(c) Preserve and, on request, make available to the Board all records necessary for compliance with this Order.

(d) Post at its business office, hiring hall, and meeting places copies of the attached notice marked "Appendix II."[28] Copies of this notice, in English and such other languages as determined to be appropriate by the Regional Director for Region 31, on forms provided by the Regional Director, after being signed by its authorized representative, shall be posted immediately upon receipt and be maintained for 60 consecutive days in conspicuous places including all places where notices to employee applicants and members are customarily posted. Reasonable steps shall be taken by Local 2435 to ensure that the notices are not altered, defaced or covered by other material.

(e) Notify the Regional Director in writing within 20 days from the date of this Order what steps Local 2435 has taken to comply.

C. Respondent Los Angeles District Council of Carpenters, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, its officers, agents, and representatives, shall

1. Cease and desist from

(a) Failing and refusing to dispatch dues paid members of Local 25 of the United Brotherhood of Carpenters and Joiners of America, AFL-CIO, because they do not have a workcard from the District Council at a time when the District Council was not uniformly providing such workcards to Local 25 members.

(b) In any like or related manner restraining or coercing employee applicants or local union members in the exercise of the rights guaranteed them in Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the purpose and policies of the Act.

(a) Make whole Robert Dale for the losses of earnings and benefits he suffered as a result of its failure to allow him to work Saturdays for Steelform, with interest, as set forth in section III,C,4 of this decision entitled "Remedy as to Local 2435 and the District Council."

(b) Jointly and severally with Respondent Local 2435 make whole James Engen for the losses of earnings and benefits he sustained as a result of its failure to refer him to employment at Moran Construction, with interest, as set forth in the section of this decision section III,C,4 entitled "Remedy as to Local 2435 and the District Council."

(c) Expunge from its files any reference to the failure and refusal to dispatch Robert Dale to Steelform and notify him, in writing, that this has been done and that evidence of its failure and refusal to dispatch him shall not be used as a basis for future action against him.

(d) Expunge from its files any reference to the failure and refusal to dispatch James Engen to Moran Construction and notify him, in writing, that this has been done and that evidence of its failure and refusal to dispatch him shall not be used as a basis for future action against him.

[27] If this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

[28] See fn. 27 above.

(e) Post at its business office, hiring hall, and meeting places copies of the attached notice marked "Appendix III"[29] Copies of this notice, in English and such other languages as determined to be appropriate by the Regional Director for Region 31, on forms provided by the Regional Director, after being signed by its authorized representative, shall be posted immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employee applicants and members are customarily posted. Reasonable steps shall be taken by the District Council to ensure that the notices are not altered, defaced, or covered by other material.

(f) Notify the Regional Director in writing within 20 days from the date of this Order what steps the District Council has taken to comply.

[29] See fn. 27 above.

APPENDIX I

NOTICE TO MEMBERS
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

After a hearing at which all sides had an opportunity to present evidence and state their positions, the National Labor Relations Board found that we have violated the National Labor Relations Act, and has ordered us to post this notice.

The National Labor Relations Act prohibits unions from causing or attempting to cause an employer to discriminate against an employee because of his membership or lack of membership in a union. Union-operated exclusive hiring halls must be operated on a nondiscriminatory basis in accordance with valid hiring hall rules.

WE WILL NOT threaten members with more or fewer referral opportunities depending on their support for or opposition to Local 25 officers.

WE WILL NOT operate our hiring hall in disregard of valid hiring hall rules and regulations.

WE WILL NOT dispatch or clear individuals to jobs in violation of our hiring hall rules and, by so doing, discriminate against those who would have received said dispatch but for our improper preference for others.

WE WILL NOT in any like or related manner restrain or coerce employees or cause employers to restrain or coerce employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL make the employees who should have received dispatches whole for losses they may have suffered as a result of our discrimination against them, with appropriate interest.

WE WILL maintain a book or semipermanent type of record to reflect accurately, fairly and nondiscriminately, the operations of the referral system for the hiring hall with specific designation of all name requests for referrals. Said book will include the name of the employer, the agent of the employer making the request, and the exception to normal procedures allowing the request, for example, a rehire or 25-percent clause and the specific special status of the employer and requested employee which justified such a name request dispatch.

WE WILL maintain the book described above for at least 1 calendar year after the commencement of its use.

WE WILL place the book in public areas of the hiring hall for easy access and inspection by hiring hall applicants, as a matter of right, during at least 2 hours of each business day at scheduled times and places.

CARPENTERS UNION LOCAL 25, UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, AFL-CIO

APPENDIX II

NOTICE TO MEMBERS
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

After a hearing at which all sides had an opportunity to present evidence and state their positions, the National Labor Relations Board found that we have violated the National Labor Relations Act, and has ordered us to post this notice.

The National Labor Relations Act prohibits unions from causing or attempting to cause an employer to discriminate against an employee because of his membership or lack of membership in a union. Union-operated exclusive hiring hall must be operated on a nondiscriminatory basis.

WE WILL NOT cause or attempt to cause employers to discriminate against employees because of their failure to possess a quarterly workcard issued by the Los Angeles District Council of Carpenters, when such workcards are not uniformly available to union members of locals within the District Council's jurisdiction.

WE WILL NOT refuse to issue proper dispatches or clearances to members of Carpenters Local 25 who are current in their dues but do not possess a quarterly workcard which is not uniformly available to all dues-paying members of Local 25.

WE WILL make, jointly and severally with the District Council, James Engen whole for losses he may have suffered as a result of our discrimination against him, with appropriate interest.

WE WILL expunge from our files any reference to the refusal to dispatch Engen and will notify him that this has been done and such evidence will not be used as a basis for future action him and WE WILL ask his employer to remove any reference to these actions from its files and will notify Engen that we have asked his employer to do this.

CARPENTERS UNION LOCAL NO. 2435, UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, AFL-CIO

APPENDIX III

NOTICE TO MEMBERS
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

After a hearing at which all sides had an opportunity to present evidence and state their positions, the National Labor Relations Board found that we have violated the National Labor Relations Act, and has ordered us to post this notice.

The National Labor Relations Act prohibits unions from causing or attempting to cause an employer to discriminate against an employee because of his membership or lack of membership in a union. Union-operated exclusive hiring halls must be operated on a nondiscriminatory basis.

WE WILL NOT cause or attempt to cause employers to discriminate against employees because of their failure to possess a quarterly workcard issued by the District Council of Carpenters, when such workcards are not uniformly available to union members of locals within the District Council's jurisdiction.

WE WILL NOT fail to issue Saturday work permits or issue proper dispatches or clearances to members of Carpenters Local 25 who are current in their dues but do not possess a quarterly workcard which is not uniformly available to all dues paying members of Local 25.

WE WILL make Robert Dale and, jointly and severally with Local 2435, James Engen whole for losses they may have suffered as a result of our discrimination against them, with apropriate interest.

WE WILL expunge from our files any references to the refusal to allow Dale Saturday work and to the refusal to dispatch Engen and will notify each individual that this has been done and such evidence will not be used as a basis for future action against him and WE WILL ask each appropriate employer to remove any reference to these actions from their files and will notify each individual that we have asked his employer to do this.

LOS ANGELES COUNTY DISTRICT COUNCIL OF CARPENTERS, UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, AFL-CIO